

Fresh Products Branch Directive

**FPB-606
5/5/92**

UNACCEPTABLE CONDUCT BY USERS OF THE INSPECTION SERVICE

I. PURPOSE

This directive clarifies the Branch's position regarding discrimination, unsafe working conditions, intimidation, or manipulation by applicants during inspection procedures. Keeping in mind that not all "colorful" language is abusive, actions or language on the part of an applicant or an applicant's agent which is intended to intimidate, threaten, interfere with or harass an inspector or otherwise alter the course of an inspection will not be tolerated by the Branch. Because of their subjective nature, all situations must be considered on a case by case basis to determine whether an action or statement is unacceptable and if there is justifiable cause to deny inspection service.

II. AUTHORITY

Section 51.46 of the "Regulations Governing Fruits, Vegetables, and Other Products" states in part: "Any or all benefits of the act may be denied any person for any of the following reasons: (c) any interference with or obstruction of any inspector or official sampler in the performance of his duties, by intimidation, threat, assault or any other improper means;"

Additionally, Section 50.11 of the "Rules of Practice Governing Withdrawal of Inspection Service" states: "The Director may withdraw grading or inspection service from a person for a correctable cause. Such service, after appropriate corrective action is taken, will be restored immediately, or as soon thereafter as a grader or inspector can be made available."

III. POLICY

Service may be denied for any of the following:

A. Discrimination - Derogatory remarks made to or about an inspector or adverse actions that are clearly taken by an applicant or an applicant's agent because of the inspector's gender, race, national origin, etc., will be considered discrimination.

B. Unsafe Working Conditions - An unsafe working environment, or physical assaults by an applicant or an applicant's agent toward an inspector, or any other working conditions that jeopardize an inspector's health

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or well being will be considered unsafe working conditions.

C. Intimidation - Any undue pressure, influence or actions or any verbal threats made by the applicant or an applicant's agent to the inspector will be considered intimidation.

D. Manipulation - Any action by the applicant or the applicant's agent that is intended, by misrepresenting the facts, to alter the outcome of an inspection will be considered manipulation.

IV. ACTION If an inspector encounters a situation wherein a reasonable person would assume that any of the above conditions exist, the inspector should immediately leave the work site or work area where the condition exists. As soon as possible, the inspector's immediate supervisor or someone in the chain of command should be contacted for further instructions. All pertinent information shall then be relayed to the Regional Director and/or Headquarters. It will then be decided whether service should be denied, a warning should be issued, or the problem can otherwise be corrected.

On all applications for inspection, the Officer-in-Charge or Federal Supervisor shall base his/her decision on which inspector to assign solely on the inspector's qualifications and experience on the commodity or type of inspection to be performed. The decision shall never be based on an applicant's desire (stated or implied) not to have certain inspectors on his/her premises for reasons other than qualifications.

Karl E. Torline

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